

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 44

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte PAUL DELABASTITA,  
JOHAN VAN HUNSEL,  
and  
FRANK SCHELFAUT

Appeal No. 2002-1262  
Application No. 08/782,866

ON BRIEF

Before CAROFF, DELMENDO, and PAWLIKOWSKI, Administrative Patent Judges.

CAROFF, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1, 4-8 and 10-12. The examiner indicated in his final rejection that claims 2-3 are objected to as being dependent upon a rejected claim but, otherwise, contain allowable subject matter. Accordingly, the only claims before us for consideration are rejected claims 1, 4-8 and 10-12.

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This appeal is related to Appeal No. 2001-0945 involving copending application 08/908,129. We also note that a Terminal Disclaimer (Paper No. 31) has been filed in the instant application.

The claims on appeal are directed to a method for making a lithographic printing plate where a frequency modulation screening technique is used to obtain data from a continuous tone original. The screened data is, in turn, used to scan-wise expose a lithographic printing plate precursor.

The appellants stipulate on page 4 of their brief that all of the appealed claims stand or fall together. Claim 11, the broadest of two independent claims, is illustrative of the subject matter encompassed by appellants' claims, and reads as follows:

11. A method for making a lithographic printing plate from an original containing continuous tones comprising the steps of:

screening said original using a frequency modulation screening to obtain screened data; and

scan-wise exposing a lithographic printing plate precursor according to said screened data, said lithographic printing plate precursor having on a support a surface capable of being differentiated in ink accepting and ink repellant areas upon said scan-wise exposure.

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Prior art references relied upon by the examiner on appeal  
are:

Peterson	4,020,762	May 3, 1977
Saikawa et al. (Saikawa)	4,501,811	Feb. 26, 1985
Newman	4,708,925	Nov. 24, 1987
Evans et al. (Evans)	5,023,229	Jun. 11, 1991
Ellis et al. (Ellis)	5,171,650	Dec. 15, 1992
Monbaliu et al. (Monbaliu)	5,283,156	Feb. 1, 1994

Allen, Harper's Dictionary of the Graphic Arts, pp. 220-21,  
224-25 (New York, Harper & Row Publ., 1963).

Stoffel et al. (Stoffel), "A Survey of Electronic Techniques for  
Pictorial Image Reproduction," IEEE Trans. On Comm., Vol. COM-  
29(12), pp. 1898-1925 (Dec. 1981).

All of the appealed claims stand rejected under 35 U.S.C.  
§ 103 for obviousness. Claims 1, 4-7 and 11-12 stand rejected  
based upon either Saikawa, Monbaliu or Peterson, each combined  
with Stoffel. Claims 1, 4-8 and 10-12 stand rejected based upon  
the same combination of references, further taken in view of  
Harper's dictionary, Evans, Ellis, and Newman.

We have carefully considered the entire record on appeal in  
light of the opposing positions taken by the appellants and the  
examiner. Having done so, we conclude that the examiner has  
established a sound prima facie case of obviousness with respect  
to all of the rejected claims, and that the arguments relied upon  
by the appellants are insufficient to overcome the evidence of

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obviousness relied upon by the examiner. Accordingly, we shall affirm each of the rejections at issue.

Since we are in substantial agreement with the examiner's position, as articulated in the examiner's answer, we adopt that position as our own. We offer the following comments for emphasis.

Initially, we note that appellants stipulate on page 13 of their brief, and on page 5 of their specification, that "Error Diffusion" techniques are a well known form of frequency modulation screening. Stoffel (pp. 1901-1907; particularly page 1907) quite clearly discloses that error diffusion techniques may be used for continuous tone pictorial reproduction. In the same vein, we refer to Table I on page 1909 of Stoffel.

In our opinion, Stoffel also makes it abundantly clear that the techniques and algorithms discussed in the article, such as "error diffusion," are generally applicable to lithography as well as other binary output/printing systems; lithography being specifically mentioned on pages 1898 and 1899. Appellants' arguments to the contrary are unpersuasive since argument by counsel cannot take the place of evidence lacking in the record.

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Since appellants stipulate that all of the claims on appeal stand or fall together, we see no need to address each of the claims, or each of the rejections, on an individual basis.

For the foregoing reasons, and for the reasons set forth in the examiner's answer, the decision of the examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED



MARC L. CAROFF )  
Administrative Patent Judge )



ROMULO H. DELMENDO )  
Administrative Patent Judge )

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BEVERLY A. PAWLIKOWSKI )  
Administrative Patent Judge )

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